

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.
★ SEP 11 2014 ★

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DECKERS OUTDOOR CORPORATION,

Plaintiff,

-against-

TKM FOREST HILLS, LLC; TKM KINGS
HIGHWAY, LLC; CHRISTOS
KALOGEROUS; IMAGE URBAN CO; and
JOHN DOES 1-10,

Defendants.
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BROOKLYN OFFICE

MEMORANDUM & ORDER

12-cv-5986 (ENV) (CLP)

VITALIANO, D.J.,

On February 12, 2014, the Court granted default judgment against defendant Image Urban Co., and referred the matter to Magistrate Judge Cheryl L. Pollack for inquest to determine appropriate damages. On July 10, 2014, Judge Pollack, in her report and recommendation ("R&R"), following the inquest, recommended that plaintiffs be awarded \$83,790.00 in statutory damages, and further recommended that an injunction be entered prohibiting defendant from:

- (1) manufacturing, distributing, advertising, offering for sale, and/or selling any products bearing plaintiff's trademarks, or any other marks confusingly similar thereto, as well as plaintiff's boot design patents;
- (2) using plaintiff's trademarks in connection with the promotion, advertisement, display, sale, offer for sale, manufacture, production, circulation or distribution of counterfeit footwear in such fashion as to relate or connect such products in any way to plaintiff or to any goods sold, manufactured, sponsored, or approved by plaintiff;
- (3) committing any other act which falsely represents or which has the effect of falsely representing that the goods and services of defendant are licensed by, or in any other way associated with, plaintiff;
- (4) knowingly aiding, abetting, contributing to, or otherwise assisting

anyone in infringement of plaintiff's trademarks; and (5) effecting new assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing these prohibitions.

(R & R 19–20, ECF No. 53).

In reviewing a report and recommendation of a magistrate judge, a district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). A district judge is required to “make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which specific written objection has been made” by any party, Fed. R. Civ. P. 72(b), but where no timely objection has been made, the “district court need only satisfy itself that there is no clear error on the face of the record” to accept a magistrate judge’s R&R. *Urena v. New York*, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

Judge Pollack’s R&R gave proper notice that any objection had to have been filed within 14 days of its entry on the docket.¹ Neither plaintiff nor defendant has objected to Judge Pollack’s R&R at all, much less within the time prescribed by 28

¹ On July 10, 2014, the Clerk of Court mailed copies of the R&R to defendant at two different addresses in Brooklyn. One copy was returned as undeliverable on July 24, 2014, but another, sent to 1360 Ocean Parkway, Apt. 6H, Brooklyn, NY 11230, was not returned. A summons was returned executed on defendant at that same address on September 11, 2013.

U.S.C. § 636(b)(1). In accord with the applicable clear error standard of review, the Court finds Judge Pollack's R&R to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts it in its entirety as the opinion of the Court.

Conclusion

In line with the foregoing, plaintiff is awarded, against Image Urban, \$83,790.00 in statutory damages, and an injunction as described above, and in greater detail in the R&R.

SO ORDERED.

**Dated: Brooklyn, New York
September 8, 2014**


s/Eric N. Vitaliano



ERIC N. VITALIANO
United States District Judge